



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

April 12, 2022

2204-VS-12

Exhibit 1

Petition Number: 2204-VS-12

Subject Site Address: 18103 Eagletown Road ("the Property")

Petitioner: Jonathan Brown ("the Petitioner")

Request: The Petitioner requests a Variance of Development Standard to reduce the Front Yard Setback from 83 feet to 77 feet on 1 acre +/- in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(E)).

Current Zoning: AG-SF1 District

Current Land Use: Residential

Approximate Acreage: 1 acre +/-

Exhibits:

1. Staff Report
2. Location Map
3. Proposed Site Plan
4. Application

Staff Reviewer: Rachel Riemenschneider, Associate Planner

OVERVIEW

Location: The subject property is 1 acre +/- in size and is located at 18103 Eagletown Road, north of SR 32 and east of Eagletown Road (see **Exhibit 2**). The Property is zoned the AG-SF1 District. All the adjacent properties are also zoned the AG-SF1 District.

Property History: The home on the Property was approximately constructed in the 1960s and the creation of the lot predates the adoption of the Westfield Washington Township Zoning Ordinance of 1977. The lot is legal nonconforming.

Requested Variances: The Petitioner is requesting a Variance of Development Standard to reduce the Front Yard Setback from 83 feet to 77 feet in the AG-SF1 District. The required Front Yard Setback in AG-SF1 is 80 feet off of a collector street.

SUMMARY OF VARIANCE

The Petitioner proposes to construct a front porch on the Property. As shown in **Exhibit 3**, the proposed porch is located within the Front Yard Setback. The Petitioner is proposing to encroach three (3) feet into the eighty (80) foot Front Yard Setback.



PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the April 12, 2022, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO¹ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO² requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variances of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

¹ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

² Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



DEPARTMENT COMMENTS:

Approval: If the Board finds that adequate evidence is shown that the Variance of Development Standard meets the applicable review criteria, then the Department recommends approval of the Variance of Development Standard (2204-VS-12), with the recommended conditions and findings as set forth below:

Recommended Conditions of Approval:

1. That the porch will be constructed in substantial compliance with the Site Plan (**Exhibit 3**);
2. That the Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Community Development Department.

Recommended Findings for Approval:

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the existing use is residential and otherwise will not increase any Legal Nonconformities per the AG-SF1 Zoning District.

- 2) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on surrounding properties because the use of the property will not change.

- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

Finding: Strict adherence to the zoning ordinance would result in the inability to construct the front porch.

Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.